

**D. ERIK ALBRIGHT** (*pro hac vice*)  
**GREGORY G. HOLLAND** (*pro hac vice*)  
**FOX ROTHSCHILD LLP**  
230 N. Elm Street, Suite 1200  
Greensboro, NC 27401  
Telephone: (336) 378-5200  
Facsimile: (336) 378-5400  
[ecalbright@foxrothschild.com](mailto:ecalbright@foxrothschild.com)

**JONATHAN P. HEYL** (*pro hac vice*)  
**FOX ROTHSCHILD LLP**  
101 N. Tryon St., Suite 1300  
Charlotte, NC 28246  
Telephone: (704) 384-2600  
Facsimile: (704) 384-2800  
[jheyl@foxrothschild.com](mailto:jheyl@foxrothschild.com)

**ALEXANDER HERNAEZ**  
CA Bar # 201441  
**FOX ROTHSCHILD LLP**  
345 California St.  
Suite 2200  
San Francisco, CA, 94104-2670  
Telephone: (415) 364-5566  
Facsimile: (415) 391-4436  
[ahernaez@foxrothschild.com](mailto:ahernaez@foxrothschild.com)

**Attorneys for Defendant**  
**ATLANTIC COAST CONFERENCE**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

IN RE COLLEGE ATHLETE NIL  
LITIGATION

Case No. 4:20-cv-03919 CW

**ANSWER AND ADDITIONAL DEFENSES  
OF DEFENDANT ATLANTIC COAST  
CONFERENCE TO CONSOLIDATED  
AMENDED COMPLAINT**

1 The Atlantic Coast Conference (“ACC”), by and through its undersigned attorneys, hereby  
 2 answers and sets forth additional defenses to the Consolidated Amended Complaint (D.E. 164)  
 3 (“Complaint”).

#### 4 **PRELIMINARY STATEMENT**

5 Except as otherwise expressly stated below, the ACC answers and responds only to those  
 6 allegations contained in the Complaint that are directed toward it. The ACC is without sufficient  
 7 knowledge or information to form a belief as to the truth of the allegations in the Complaint that  
 8 are directed toward other defendants. Pursuant to Federal Rule of Civil Procedure 8(b)(5), such  
 9 allegations are deemed denied. In addition, the Complaint contains 195 footnotes. To the extent  
 10 the contents of those footnotes are not addressed in the text of the ACC’s answer to the Paragraph  
 11 to which the footnote relates and/or to the extent that the content of any footnote can be read to  
 12 contain factual allegations, the ACC denies the allegations set forth therein.

#### 13 **RESPONSES TO NUMBERED PARAGRAPHS OF COMPLAINT**

14 The ACC denies any and all allegations contained in the headings of the Complaint and  
 15 responds to the numbered paragraphs of the Complaint as follows:

16 1. The ACC admits that Zion Williamson played basketball at Duke University in  
 17 2019 and participated in a game between Duke University and the University of North Carolina,  
 18 and that his shoe appeared to fail during the game. The ACC lacks knowledge, information, or  
 19 belief sufficient to admit or deny the allegations included in Paragraph 1 concerning television  
 20 viewers, speculation of unnamed persons about Zion Williamson’s alleged knee sprain, and Nike  
 21 stock value. The ACC denies the remaining allegations of Paragraph 1.

22 2. The ACC admits that NCAA rules in effect in 2019 established limitations on  
 23 compensation provided to student-athletes for the actual or alleged use of their names, images,  
 24 and likenesses. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
 25 allegations included in Paragraph 2 concerning the alleged contract between Duke University and  
 26 Nike and what would have occurred absent certain NCAA rules. Except as expressly admitted,  
 27 the ACC denies the allegations of Paragraph 2.  
 28

1           3.       The ACC admits that a small minority of NCAA Division I athletic departments  
2 generate positive net revenues. The ACC further admits that NCAA rules have established  
3 limitations on compensation to student-athletes for the alleged use of their names, images, and  
4 likenesses. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
5 allegations included in Paragraph 3 concerning alleged salaries of coaches and others. Except as  
6 expressly admitted, the ACC denies the allegations of Paragraph 3.

7           4.       The ACC admits that the NCAA Constitution and Bylaws contain rules governing  
8 certain types of conduct of members relating to collegiate athletics, the benefits that may be  
9 provided to student-athletes, and other aspects of collegiate sports, and contain statements relating  
10 to the principles of amateurism and collegiate sports. The ACC further admits that the NCAA has  
11 previously advanced amateurism as a justification for certain of the rules set forth in the NCAA  
12 Constitution and Bylaws. Except as expressly admitted, the ACC denies the allegations of  
13 Paragraph 4.

14           5.       The ACC admits that Plaintiffs seek to challenge NCAA rules setting forth  
15 limitations on compensating student-athletes for use of their names, images, and likenesses. The  
16 ACC further admits that the NCAA issued an Interim NIL Policy (along with accompanying  
17 materials) effective July 1, 2021 (the date that certain state laws and executive orders addressing  
18 NIL were effective or soon to be effective), with the result that certain activities relating to name,  
19 image, and likeness would not be impacted by the application of certain NCAA bylaws. Except  
20 as expressly admitted, the ACC denies the allegations of Paragraph 5.

21           6.       The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations included in Paragraph 6 concerning unattributed comments allegedly made by the  
23 NCAA. Except as expressly admitted, the ACC denies the allegations of Paragraph 6.

24           7.       The ACC admits that the NCAA issued an Interim NIL Policy (along with  
25 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
26 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
27 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
28 bylaws. The ACC lacks knowledge, information, or belief sufficient to admit or deny the

1 allegations included in Paragraph 7 concerning alleged comments made by the NCAA and profits  
2 derived by unidentified companies. Except as expressly admitted, the ACC denies the allegations  
3 of Paragraph 7.

4 8. The ACC admits that it is party to certain sponsorship agreements. The ACC  
5 further admits on information and belief that the NCAA, other conferences, and in some instances  
6 coaches have sponsorship or endorsement agreements. The ACC lacks knowledge, information,  
7 or belief sufficient to admit or deny the remaining allegations included in Paragraph 8 concerning  
8 alleged agreements between companies and persons or entities. Except as expressly admitted, the  
9 ACC denies the allegations of Paragraph 8.

10 9. The ACC admits that the NCAA and some conferences and schools utilize certain  
11 social media platforms. The ACC further admits that the NCAA issued an Interim NIL Policy  
12 (along with accompanying materials) effective July 1, 2021 (the date that certain state laws and  
13 executive orders addressing NIL were effective or soon to be effective), with the result that  
14 certain activities relating to name, image, and likeness would not be impacted by the application  
15 of certain NCAA bylaws. The ACC lacks knowledge, information, or belief sufficient to admit or  
16 deny the allegations included in Paragraph 9 concerning the financial rewards allegedly received  
17 by unidentified persons from social media. Except as expressly admitted, the ACC denies the  
18 allegations of Paragraph 9.

19 10. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations included in Paragraph 10 concerning alleged comments of Oliver Luck. The  
21 remaining allegations of Paragraph 10 contain conclusions of law to which no response is  
22 required; to the extent a response is required, the ACC denies the remaining allegations of  
23 Paragraph 10.

24 11. The ACC specifically denies that it has violated the federal antitrust laws or  
25 common law and denies the remaining allegations of Paragraph 11.

26 12. The ACC admits that NCAA rules have established limitations on compensation to  
27 student-athletes for the alleged use of their names, images, and likenesses. The ACC further  
28 admits that the NCAA issued an Interim NIL Policy (along with accompanying materials)

1 effective July 1, 2021 (the date that certain state laws and executive orders addressing NIL were  
2 effective or soon to be effective), with the result that certain activities relating to name, image,  
3 and likeness would not be impacted by the application of certain NCAA bylaws. The ACC  
4 further admits on information and belief that there have been media reports that certain student-  
5 athletes at some schools and in some sports have been offered or accepted compensation for the  
6 alleged use of their names, images, and likenesses following the passage of state NIL laws and  
7 issuance of the Interim NIL Policy. The ACC lacks knowledge, information, or belief sufficient to  
8 admit or deny the allegations and quotations included in Paragraph 12 concerning Katelyn  
9 Ohashi. Except as expressly admitted, the ACC denies the allegations of Paragraph 12.

10 13. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
11 allegations included in Paragraph 13 concerning alleged comments of Dave Bradley, alleged  
12 comments of Nick Saban, and unidentified “recent analyses.” The ACC denies the remaining  
13 allegations of Paragraph 13.

14 14. The ACC admits that according to unverified media reports some representatives  
15 of NCAA members have made public comments regarding possible revision of NCAA NIL rules  
16 and considerations relating to any such revisions. The ACC lacks knowledge, information, or  
17 belief sufficient to admit or deny the allegations included in Paragraph 14 concerning the salaries  
18 and alleged comments of Scott Frost and Jim Harbaugh. Except as expressly admitted, the ACC  
19 denies the allegations of Paragraph 14.

20 15. The ACC admits that recently enacted state statutes, some of which became  
21 effective July 1, 2021, require that institutions offer certain educational resources and services to  
22 student-athletes relating to name, image, and likeness, and that some NCAA member institutions  
23 have offered educational resources and services. The ACC lacks knowledge, information, or  
24 belief sufficient to admit or deny the allegations included in Paragraph 15 concerning alleged  
25 comments of Rick George, the alleged programs of the University of Nebraska and the University  
26 of Colorado, and the NAIA. Except as expressly admitted, the ACC denies the allegations of  
27 Paragraph 15.

1           16.     The ACC admits on information and belief that the NCAA entered an eight-year  
2 extension of its media contract to broadcast the NCAA Division I basketball tournament. The  
3 ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations included  
4 in Paragraph 16 concerning the terms of contracts entered by other entities. Except as expressly  
5 admitted, the ACC denies the allegations of Paragraph 16.

6           17.     The ACC admits that California has passed the Fair Pay to Play Act and that  
7 multiple other states have introduced or passed legislation or issued executive orders relating to  
8 NIL. Except as expressly admitted, the ACC denies the allegations of Paragraph 17.

9           18.     The ACC admits that, with state legislation passed and likely to be passed, the  
10 NCAA and its working groups studied, issued statements regarding, and drafted proposed rules  
11 for consideration related to certain NIL issues in 2019 and 2020. Except as expressly admitted,  
12 the ACC denies the allegations of Paragraph 18.

13           19.     The ACC admits that defendants in *Alston* appealed the Ninth Circuit's decision to  
14 the United States Supreme Court and hoped to prevail on appeal. Except as expressly admitted,  
15 the ACC denies the allegations of Paragraph 19.

16           20.     The ACC admits that the NCAA's Interim NIL Policy became effective on July 1,  
17 2021, and not before, and that the laws of various states were due to go into effect on July 1. The  
18 ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations included  
19 in Paragraph 20 concerning alleged lobbying efforts of the NCAA. The ACC denies the  
20 remaining allegations of Paragraph 20.

21           21.     The ACC admits that on June 21, 2021 the United States Supreme Court issued its  
22 opinion in *Alston*. The ACC further admits that on June 24, 2021 this Court issued its ruling on  
23 Defendants' motion to dismiss Plaintiffs' initial complaint in this action. Except as expressly  
24 admitted, the ACC denies the allegations of Paragraph 21.

25           22.     The ACC admits that the NCAA issued an Interim NIL Policy (along with  
26 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
27 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
28

1 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
2 bylaws. Except as expressly admitted, the ACC denies the allegations of Paragraph 22.

3 23. The ACC admits that the NCAA issued an Interim NIL Policy (along with  
4 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
5 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
6 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
7 bylaws. Except as expressly admitted, the ACC denies the allegations of Paragraph 23.

8 24. The ACC admits that according to unverified media sources report that certain  
9 student-athletes at some schools and in some sports have been offered or accepted compensation  
10 for the alleged use of their names, images, and likenesses following the passage of state NIL laws  
11 and issuance of the Interim NIL Policy. The ACC lacks knowledge, information, or belief  
12 sufficient to admit or deny the allegations included in Paragraph 24 concerning the University of  
13 Florida, the University of Michigan, and the industry affiliations of entities allegedly entering  
14 agreements with student-athletes. The ACC admits on information and belief that according to  
15 unverified media reports the University of North Carolina and Brandr announced a program in  
16 July 2021 addressing licensing of marks in certain circumstances; the ACC lacks knowledge,  
17 information, or belief sufficient to admit or deny additional allegations about the terms of the  
18 program. Except as expressly admitted, the ACC denies the allegations of Paragraph 24.

19 25. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations of Paragraph 25.

21 26. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations of Paragraph 26.

23 27. The ACC admits that that state laws and the Interim NIL Policy have opened  
24 opportunities for student-athletes to license NIL rights. The ACC lacks knowledge, information,  
25 or belief sufficient to admit or deny the remaining allegations of Paragraph 27.

26 28. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
27 allegations of Paragraph 28.

1           29.     The ACC admits that recently enacted state statutes, some of which became  
2 effective July 1, 2021, require that institutions offer certain educational resources and services to  
3 student-athletes relating to name, image, and likeness, and that some NCAA member institutions  
4 have offered educational resources and services. The ACC lacks knowledge, information, or  
5 belief sufficient to admit or deny the remaining allegations of Paragraph 29.

6           30.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
7 allegations included in Paragraph 30 concerning alleged comments of unidentified schools across  
8 the country. The ACC denies the remaining allegations of Paragraph 30.

9           31.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations included in Paragraph 31 concerning alleged surveys and consumer sentiment. Except  
11 as expressly admitted, the ACC denies the allegations of Paragraph 31.

12          32.     The ACC denies the allegations of Paragraph 32.

13          33.     The ACC admits that the NCAA issued an Interim NIL Policy (along with  
14 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
15 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
16 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
17 bylaws. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
18 allegations included in Paragraph 33 concerning alleged comments of Mark Emmert. The ACC  
19 denies that an injunction as described in Paragraph 33 would be appropriate or legally justified.  
20 Except as expressly admitted, the ACC denies the allegations of Paragraph 33.

21          34.     The ACC denies that an injunction as described in Paragraph 34 would be  
22 appropriate or legally justified and denies the allegations of Paragraph 34.

23          35.     The ACC admits that Plaintiffs request an injunction; the ACC denies that  
24 Plaintiffs are entitled to an injunction. The ACC specifically denies that it has engaged in  
25 unlawful or anticompetitive conduct. Except as expressly admitted, the ACC denies the  
26 allegations of Paragraph 35.

27          36.     The ACC admits that Plaintiffs seek the relief stated in Paragraph 36; the ACC  
28 denies that Plaintiffs are entitled to such relief. The ACC specifically denies that it has engaged



1 in unlawful or anticompetitive conduct. Except as expressly admitted, the ACC denies the  
2 allegations of Paragraph 36.

3 37. The ACC admits that Plaintiffs seek the relief stated in Paragraph 37; the ACC  
4 denies that Plaintiffs are entitled to such relief. The ACC specifically denies that it has engaged  
5 in unlawful or anticompetitive conduct. Except as expressly admitted, the ACC denies the  
6 allegations of Paragraph 37.

7 38. The ACC admits that Plaintiffs seek the relief stated in Paragraph 38; the ACC  
8 denies that Plaintiffs are entitled to such relief. The ACC specifically denies that it has engaged  
9 in unlawful or anticompetitive conduct. Except as expressly admitted, the ACC denies the  
10 allegations of Paragraph 38.

11 39. The allegations of paragraph 39 call for legal conclusions to which no response is  
12 required. To the extent any response is necessary, the ACC admits that Plaintiffs purport to  
13 allege subject matter jurisdiction under the statutes cited in Paragraph 39, but denies that  
14 Plaintiffs or purported class members are entitled to any relief sought. Except as expressly  
15 admitted, the ACC denies the allegations of Paragraph 39.

16 40. The ACC denies the allegations of Paragraph 40 but has not challenged venue in  
17 this action.

18 41. The ACC admits that the defendants have transacted business (as that term is used  
19 in venue statutes) throughout the United States and that the University of California –Berkeley,  
20 Stanford University, Santa Clara University, the University of San Francisco, and St. Mary's  
21 College are located in the Northern District of California. Except as expressly admitted, the ACC  
22 denies the allegations of Paragraph 41 but does not challenge personal jurisdiction in this action.

23 42. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
24 allegations of Paragraph 42.

25 43. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
26 allegations of Paragraph 43.

27 44. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations of Paragraph 44.

1           45.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 45.

3           46.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
4 allegations of Paragraph 46.

5           47.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
6 allegations of Paragraph 47.

7           48.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8 allegations of Paragraph 48.

9           49.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations of Paragraph 49.

11          50.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
12 allegations of Paragraph 50.

13          51.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations of Paragraph 51.

15          52.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
16 allegations of Paragraph 52.

17          53.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
18 allegations of Paragraph 53.

19          54.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations of Paragraph 54.

21          55.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations of Paragraph 55.

23          56.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
24 allegations of Paragraph 56.

25          57.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
26 allegations of Paragraph 57.

27          58.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations of Paragraph 58.

1           59.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 59.

3           60.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
4 allegations of Paragraph 60.

5           61.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
6 allegations of Paragraph 61.

7           62.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8 allegations of Paragraph 62.

9           63.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations of Paragraph 63.

11          64.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
12 allegations of Paragraph 64.

13          65.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations of Paragraph 65.

15          66.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
16 allegations of Paragraph 66.

17          67.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
18 allegations of Paragraph 67.

19          68.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations of Paragraph 68.

21          69.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations of Paragraph 69.

23          70.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
24 allegations of Paragraph 70.

25          71.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
26 allegations of Paragraph 71.

27          72.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations of Paragraph 72.

1           73.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2     allegations of Paragraph 73.

3           74.     The ACC admits that the NCAA is an unincorporated not-for-profit educational  
4     organization founded in 1906 with its principal offices in Indianapolis, Indiana. The ACC further  
5     admits that the NCAA has more than 1,200 colleges, universities, and athletic conferences,  
6     including the Conference Defendants, as members, which are located throughout the United  
7     States. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8     allegations included in Paragraph 74 concerning comments the NCAA has allegedly made about  
9     whether it speaks and acts for colleges and universities on athletic matters at a national level.  
10    Except as expressly admitted, the ACC denies the allegations of Paragraph 74.

11          75.     The ACC admits that the NCAA and its members have adopted a constitution and  
12    bylaws, which set forth procedures for amendments thereto. The ACC further admits that the  
13    NCAA enforces compliance with its bylaws and may impose penalties for noncompliance in  
14    some instances. Except as expressly admitted, the ACC denies the allegations of Paragraph 75.

15          76.     The ACC admits that the NCAA includes numerous member institutions organized  
16    in three divisions and that some institutions sponsor football teams. The ACC lacks knowledge,  
17    information, or belief sufficient to admit or deny the allegations included in Paragraph 76  
18    concerning the specific number of institutions in different divisions or that sponsor football  
19    programs. Except as expressly admitted, the ACC denies the allegations of Paragraph 76.

20          77.     The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
21    allegations of Paragraph 77.

22          78.     Upon information and belief, the ACC admits that the Pac-12 is an unincorporated  
23    association with its principal offices located in California, that it is a multi-sport collegiate  
24    athletic conference, and a formal “conference member” of NCAA Division I. Upon information  
25    and belief, the ACC further admits that the Pac-12 is an IRS § 501(c)(3) entity. The ACC lacks  
26    knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
27    Paragraph 78.

1           79.     The ACC admits that the Pac-12's current members are the institutions identified  
2 in Paragraph 79. Except as expressly admitted, the ACC denies the allegations of Paragraph 79.

3           80.     The ACC denies the allegations of Paragraph 80.

4           81.     Upon information and belief, the ACC admits that the Big Ten is a nonprofit  
5 corporation with its principal offices located in Illinois, that it is a multi-sport collegiate athletic  
6 conference, and a formal "conference member" of NCAA Division I. Upon information and  
7 belief, the ACC further admits that the Big Ten is an IRS § 501(c)(3) entity. The ACC lacks  
8 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
9 Paragraph 81.

10          82.     The ACC admits that the Big Ten's current members are the institutions identified  
11 in Paragraph 82, and that all of its football members are in the Football Bowl Subdivision.  
12 Except as expressly admitted, the ACC denies the allegations of Paragraph 82.

13          83.     The ACC denies the allegations of Paragraph 83.

14          84.     Upon information and belief, the ACC admits that the Big 12 is a nonprofit  
15 corporation with its principal offices located in Texas, that it is a multi-sport collegiate athletic  
16 conference, and a formal "conference member" of NCAA Division I. Upon information and  
17 belief, the ACC further admits that the Big 12 is an IRS § 501(c)(3) entity. The ACC lacks  
18 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
19 Paragraph 84.

20          85.     The ACC admits that the Big 12's current members are the institutions identified  
21 in Paragraph 85, and that all of its football members are in the Football Bowl Subdivision.  
22 Except as expressly admitted, the ACC denies the allegations of Paragraph 85.

23          86.     The ACC denies the allegations of Paragraph 86.

24          87.     Upon information and belief, the ACC admits that the SEC is an unincorporated  
25 association with its principal offices located in Alabama, that it is a multi-sport collegiate athletic  
26 conference, and a formal "conference member" of NCAA Division I. Upon information and  
27 belief, the ACC further admits that the SEC is an IRS § 501(c)(3) entity. The ACC lacks  
28

1 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
2 Paragraph 87.

3 88. The ACC admits that the SEC's current members are the institutions identified in  
4 Paragraph 88, and that all of its football members are in the Football Bowl Subdivision. Except  
5 as expressly admitted, the ACC denies the allegations of Paragraph 88.

6 89. The ACC denies the allegations of Paragraph 89.

7 90. The ACC admits that it is an unincorporated association with its principal offices  
8 located in Greensboro, North Carolina, that it is a multi-sport collegiate athletic conference, and a  
9 formal "conference member" of NCAA Division I. The ACC further admits that it is an IRS  
10 § 501(c)(3) entity and that it filed a 2017 IRS Form 990. Except as expressly admitted, the ACC  
11 denies the allegations of Paragraph 90.

12 91. The ACC admits that it has 15 member institutions. The ACC further admits that  
13 Notre Dame generally participates in all sports except football and hockey, with exceptions.  
14 Except as expressly admitted, the ACC denies the allegations of Paragraph 91.

15 92. The ACC denies the allegations of Paragraph 92.

16 93. The ACC denies the characterization and therefore denies the allegations of  
17 Paragraph 93.

18 94. The ACC will respond separately to the various allegations in other Paragraphs of  
19 the Complaint and, except as expressly admitted in responses to such other allegations, denies the  
20 allegations of Paragraph 94.

21 95. The ACC denies the allegations of Paragraph 95.

22 96. The ACC admits that Plaintiffs seek to challenge NCAA rules that have  
23 established limitations on compensation to student-athletes, including for the alleged use of their  
24 names, images, and likenesses. Except as expressly admitted, the ACC denies the allegations of  
25 Paragraph 96.

26 97. The ACC admits that the NCAA Manual contains the provisions quoted in part  
27 from NCAA Bylaw 12.5.2.1 in Paragraph 97. The ACC further admits that the NCAA Manual  
28 sets forth NCAA rules, subject to the changes in application effected by the Interim NIL Policy,

1 other NCAA guidance and interpretations, and state laws. Except as expressly admitted, the ACC  
2 denies the allegations of Paragraph 97.

3 98. The ACC admits that the NCAA Manual contains the provisions quoted in part  
4 from NCAA Bylaw 12.5.2.2 in Paragraph 98. The ACC further admits that the NCAA Manual  
5 sets forth NCAA rules, subject to the changes in application effected by the Interim NIL Policy,  
6 other NCAA guidance and interpretations, and state laws. Except as expressly admitted, the ACC  
7 denies the allegations of Paragraph 98.

8 99. The ACC admits that NCAA rules have established limitations on compensation to  
9 student-athletes, including for the alleged use of their names, images, and likenesses, subject to  
10 the changes in application effected by the Interim NIL Policy, other NCAA guidance and  
11 interpretations, and state laws. Except as expressly admitted, the ACC denies the allegations of  
12 Paragraph 99.

13 100. The ACC admits that the NCAA Manual contains the provisions quoted in part  
14 from NCAA Bylaws 12.4.1 and 12.4.1.1 in Paragraph 100. The ACC further admits that the  
15 NCAA Manual sets forth NCAA rules, subject to the changes in application effected by the  
16 Interim NIL Policy, other NCAA guidance and interpretations, and state laws. Except as  
17 expressly admitted, the ACC denies the allegations of Paragraph 100.

18 101. The ACC admits that the NCAA Manual contains the provisions quoted in part  
19 from NCAA Bylaw 12.4.2.3 in Paragraph 101. The ACC further admits that the NCAA Manual  
20 sets forth NCAA rules, subject to the changes in application effected by the Interim NIL Policy,  
21 other NCAA guidance and interpretations, and state laws. Except as expressly admitted, the ACC  
22 denies the allegations of Paragraph 101.

23 102. The ACC admits that the NCAA Manual contains the provisions quoted in part  
24 from NCAA Bylaw 12.4.4 in Paragraph 102. The ACC further admits that the NCAA Manual  
25 sets forth NCAA rules, subject to the changes in application effected by the Interim NIL Policy,  
26 other NCAA guidance and interpretations, and state laws. Except as expressly admitted, the ACC  
27 denies the allegations of Paragraph 102.

1           103. The ACC admits that the NCAA can enforce compliance with its bylaws and may  
2 impose various penalties for noncompliance in some instances as set forth in its bylaws. Except  
3 as expressly admitted, the ACC denies the allegations of Paragraph 103.

4           104. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
5 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
6 interpretations, and state laws. The ACC lacks knowledge, information, or belief sufficient to  
7 admit or deny the allegations included in Paragraph 104 concerning what sponsors could or may  
8 do. Except as expressly admitted, the ACC denies the allegations of Paragraph 104.

9           105. The ACC denies the allegations of Paragraph 105.

10          106. The ACC denies the allegations of Paragraph 106.

11          107. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
12 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
13 interpretations, and state laws. Except as expressly admitted, the ACC denies the allegations of  
14 Paragraph 107.

15          108. The ACC admits that NCAA rules have established limitations on compensation to  
16 student-athletes, including for the use or alleged use of their names, images, and likenesses, and  
17 rules governing student-athlete eligibility and certain conduct, subject to the changes in  
18 application effected by the Interim NIL Policy, other NCAA guidance and interpretations, and  
19 state laws. Except as expressly admitted, the ACC denies the allegations of Paragraph 108.

20          109. The ACC admits on information and belief that schools in NCAA Divisions II and  
21 III offer fewer scholarships than those in Division I, and that collective bargaining agreements of  
22 the NFL and the NBA include restrictions on which individuals are eligible to play in those  
23 leagues and the timing of when they are eligible. The ACC lacks knowledge, information, or  
24 belief sufficient to admit or deny the allegations included in Paragraph 109 concerning NAIA,  
25 NCCAA, and USCAA schools, and the allegations concerning whether recruits “rarely forego”  
26 opportunities to play Division I sports in order to play professionally. Except as expressly  
27 admitted, the ACC denies the allegations of Paragraph 109.  
28



1           110. The ACC admits that the NCAA issued an Interim NIL Policy (along with  
2 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
3 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
4 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
5 bylaws. Except as expressly admitted, the ACC denies the allegations of Paragraph 110.

6           111. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
7 allegations in paragraph 111 concerning whether or not any NCAA member institutions have paid  
8 NIL compensation to student-athletes. Except as expressly admitted, the ACC denies the  
9 allegations of Paragraph 111.

10           112. The ACC admits that unverified media sources report that certain student-athletes  
11 in some sports have been offered and/or accepted compensation for the alleged use of their  
12 names, images, and likenesses following the passage of state NIL laws and issuance of the  
13 Interim NIL Policy. The ACC lacks knowledge, information, or belief sufficient to admit or deny  
14 the allegations in paragraph 112 concerning whether or not any NCAA member institutions have  
15 paid NIL compensation to student-athletes. The ACC further lacks knowledge, information, or  
16 belief sufficient to admit or deny the allegations in paragraph 112 concerning Plaintiffs'  
17 awareness, or lack thereof, of NCAA member institutions' or conferences' NIL policies. Except  
18 as expressly admitted, the ACC denies the allegations of Paragraph 112.

19           113. The ACC admits that recently enacted state statutes, some of which became  
20 effective July 1, 2021, require that institutions offer certain educational resources and services to  
21 student-athletes relating to name, image, and likeness, and that some NCAA member institutions  
22 have offered educational resources and services. The ACC lacks knowledge, information, or  
23 belief sufficient to admit or deny the remaining allegations included in Paragraph 113 concerning  
24 NIL initiative partnering and the specific NIL initiatives of Michigan State, the University of  
25 Michigan, Ohio State, Stanford, and UC Berkeley. Except as expressly admitted, the ACC denies  
26 the allegations of Paragraph 113.

27           114. The ACC admits on information and belief that unverified media sources report  
28 that certain student-athletes at some schools and in some sports have been offered or accepted

1 compensation for the alleged use of their names, images, and likenesses following the passage of  
2 state NIL laws and issuance of the Interim NIL Policy. The ACC lacks knowledge, information,  
3 or belief sufficient to admit or deny the allegations included in Paragraph 114 concerning Olivia  
4 Dunne and the alleged value of NIL rights. Except as expressly admitted, the ACC denies the  
5 allegations of Paragraph 114.

6 115. The ACC admits on information and belief that unverified media sources report  
7 that certain student-athletes at some schools and in some sports have been offered or accepted  
8 compensation for the alleged use of their names, images, and likenesses following the passage of  
9 state NIL laws and issuance of the Interim NIL Policy. Except as expressly admitted, the ACC  
10 denies the allegations of Paragraph 115.

11 116. The ACC denies the allegations of Paragraph 116.

12 117. The ACC denies the allegations of Paragraph 117.

13 118. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations included in Paragraph 118 concerning the policies that various educational institutions  
15 may have relating to students other than student-athletes, and concerning alleged comments of  
16 Brian Freeman, CEO of HeartBeat. Except as expressly admitted, the ACC denies the allegations  
17 of Paragraph 118.

18 119. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
19 allegations included in Paragraph 119 concerning the practices of various educational institutions  
20 relating to students other than student-athletes, and concerning a YouTube channel at Colorado  
21 State University. Except as expressly admitted, the ACC denies the allegations of Paragraph 119.

22 120. The ACC admits that NCAA rules have established limitations on compensation to  
23 student-athletes, including for the alleged use of their names, images, and likenesses. The ACC  
24 lacks knowledge, information, or belief sufficient to admit or deny the allegations included in  
25 Paragraph 120 concerning Breana Dodd. Except as expressly admitted, the ACC denies the  
26 allegations of Paragraph 120.

1           121. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations included in Paragraph 121 concerning alleged comments of Mark Emmert. The ACC  
3 denies the remaining allegations of Paragraph 121.

4           122. The ACC denies the allegations of Paragraph 122.

5           123. Upon information and belief, the ACC admits that former NCAA Executive  
6 Director Walter Byers wrote a book titled Unsportsmanlike Conduct: Exploiting College  
7 Athletes, published in 1995. Except as expressly admitted, the ACC lacks knowledge,  
8 information, or belief sufficient to admit or deny the remaining allegations of Paragraph 123.

9           124. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations included in Paragraph 124 concerning any alleged website content and regarding  
11 reported statements made about or by the NCAA. Except as expressly admitted, the ACC denies  
12 the allegations of Paragraph 124.

13           125. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations of Paragraph 125.

15           126. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
16 allegations of Paragraph 126.

17           127. The ACC admits that Article I of the NCAA Constitution contains the language  
18 quoted in Paragraph 127.

19           128. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations of Paragraph 128.

21           129. The ACC admits that the NCAA is a voluntary organization and otherwise lacks  
22 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
23 Paragraph 129.

24           130. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
25 allegations of Paragraph 130.

26           131. The ACC admits that the NCAA Manual contains the provisions quoted in part  
27 from NCAA Constitution Article 3.02.3 in Paragraph 131. The ACC lacks knowledge,  
28 information, or belief sufficient to admit or deny the remaining allegations of Paragraph 131.

1           132. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 132.

3           133. The ACC admits that the NCAA legislative system involves boards, councils, and  
4 numerous committees, groups, and structures. The ACC lacks knowledge, information, or belief  
5 sufficient to admit or deny the allegations included in Paragraph 133 concerning reported  
6 comments made by the NCAA. Except as expressly admitted, the ACC denies the allegations of  
7 Paragraph 133.

8           134. The ACC admits that the NCAA and its members have adopted a constitution and  
9 bylaws as set forth in the NCAA Manual, which is published annually and updated periodically.  
10 Except as expressly admitted, the ACC denies the allegations of Paragraph 134.

11           135. The ACC admits that the method of adoption of NCAA rules and amendments  
12 thereto is set forth in the NCAA Manual. The ACC further admits that the NCAA Manual  
13 contains the provisions quoted in part from NCAA Bylaw 5.2.2 in Paragraph 135. Except as  
14 expressly admitted, the ACC denies the allegations of Paragraph 135.

15           136. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
16 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
17 interpretations, and state laws. The ACC further admits that the NCAA Manual contains the  
18 provisions quoted in part from Article 1.3.2 and Article 2.8.1 in Paragraph 136. Except as  
19 expressly admitted, the ACC denies the allegations of Paragraph 136.

20           137. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
21 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
22 interpretations, and state laws. The ACC further admits that the NCAA Manual contains the  
23 provisions quoted in part from Article 3.1 and Article 3.2.1.2 in Paragraph 137. Except as  
24 expressly admitted, the ACC denies the allegations of Paragraph 137.

25           138. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
26 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
27 interpretations, and state laws. The ACC further admits that the NCAA Manual contains the  
28 provisions quoted in part from Article 3.2.4 and Article 3.2.4.4 in Paragraph 138. The ACC

1 specifically denies that it has engaged in price-fixing activity. Except as expressly admitted, the  
2 ACC denies the allegations of Paragraph 138.

3 139. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
4 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
5 interpretations, and state laws. The ACC specifically denies that it has engaged in price-fixing  
6 activity. Except as expressly admitted, the ACC denies the allegations of Paragraph 139.

7 140. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
8 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
9 interpretations, and state laws. The ACC further admits that the NCAA Manual contains the  
10 provisions quoted in part from Articles 2.8.3, 3.2.5.1, 3.01.4, and 3.2.5.1.1 in Paragraph 140.  
11 Except as expressly admitted, the ACC denies the allegations of Paragraph 140.

12 141. The ACC admits that member conferences assist with compliance with NCAA  
13 rules. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations included in Paragraph 141 concerning the Pac-12 handbook and the statements  
15 therein. Except as expressly admitted, the ACC denies the allegations of Paragraph 141.

16 142. The ACC admits that the NCAA Manual sets forth NCAA rules, subject to the  
17 changes in application effected by the Interim NIL Policy, other NCAA guidance and  
18 interpretations, and state laws. The ACC further admits that the NCAA Manual contains the  
19 provisions quoted in part from Bylaw 14.01.3 in Paragraph 142. Except as expressly admitted,  
20 the ACC denies the allegations of Paragraph 142.

21 143. The ACC denies the allegations of Paragraph 143.

22 144. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations included in Paragraph 144 concerning alleged comments of Mark Lewis. The ACC  
24 denies the remaining allegations of Paragraph 144.

25 145. The ACC admits that a small minority of NCAA Division I athletic departments  
26 generate positive net revenues after (as is appropriate) the expenses incurred by the institutions  
27 are offset against revenue generated by institutions and distributed to the institutions by the  
28 NCAA and conferences. The ACC lacks knowledge, information, or belief sufficient to admit or

1 deny the allegations included in Paragraph 145 concerning alleged revenues of the NCAA,  
2 conferences, and individual athletic programs. Except as expressly admitted, the ACC denies the  
3 allegations of Paragraph 145.

4 146. The ACC denies the allegations of Paragraph 146.

5 147. The ACC admits that it is party to a broadcast licensing agreement. The ACC  
6 further admits upon information and belief that the NCAA and other conferences are parties to  
7 broadcast licensing agreements. The ACC further admits that in 2016 the NCAA announced a  
8 new eight-year agreement with CBS and Turner Sports for the rights to broadcast the NCAA  
9 Division I basketball tournament on television and that the license fee has been publicly reported  
10 to be approximately \$8.8 billion over the eight-year term of the agreement. The ACC further  
11 admits that the NCAA distributes net revenues from the broadcast licenses to its members, which  
12 funds are used to support educational programs. The ACC lacks knowledge, information, or  
13 belief sufficient to admit or deny the allegations included in Paragraph 147 concerning alleged  
14 terms of broadcast licensing agreements of other entities. Except as expressly admitted, the ACC  
15 denies the allegations of Paragraph 147.

16 148. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
17 allegations included in Paragraph 148 concerning alleged advertising revenue at various events.  
18 The ACC denies the remaining allegations of Paragraph 148.

19 149. The ACC admits that it is party to certain sponsorship agreements. The ACC  
20 further admits on information and belief that the NCAA, other conferences, and NCAA member  
21 institutions are parties to certain sponsorship agreements. Except as expressly admitted, the ACC  
22 denies the allegations of Paragraph 149.

23 150. The ACC admits that Senator Murphy published a report with certain statements  
24 as set forth therein. The ACC lacks knowledge, information, or belief sufficient to admit or deny  
25 the allegations included in Paragraph 150 concerning alleged NCAA contractual agreements. The  
26 ACC denies the remaining allegations of Paragraph 150.

27 151. The ACC admits on information and belief that some NCAA member institutions  
28 have contracts with apparel companies. The ACC lacks knowledge, information, or belief

1 sufficient to admit or deny the allegations included in Paragraph 151 concerning specifics of  
2 alleged apparel agreements. Except as expressly admitted, the ACC denies the allegations of  
3 Paragraph 151.

4 152. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
5 allegations included in Paragraph 152 concerning alleged apparel agreements. The ACC denies  
6 the remaining allegations of Paragraph 152.

7 153. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8 allegations included in Paragraph 153 concerning alleged apparel agreements. The ACC denies  
9 the remaining allegations of Paragraph 153.

10 154. The ACC admits on information and belief that apparel companies, through  
11 involvement in AAU basketball, might influence the selection of colleges by some high school  
12 students. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
13 allegations included in Paragraph 154 concerning the AAU and alleged apparel agreements.  
14 Except as expressly admitted, the ACC denies the allegations of Paragraph 154.

15 155. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
16 allegations included in Paragraph 155 concerning the percentage of prospects who attend a  
17 college or remain affiliated with merchandise brands in the NBA. The ACC denies the remaining  
18 allegations of Paragraph 155.

19 156. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
20 allegations included in Paragraph 156 concerning alleged actions and comments of Sabrina  
21 Ionescu. The ACC denies the remaining allegations of Paragraph 156.

22 157. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations included in Paragraph 157 concerning alleged apparel agreements and alleged  
24 comments of Rick Pitino. Except as expressly admitted, the ACC denies the allegations of  
25 Paragraph 157.

26 158. The ACC admits that in 2017 the FBI announced the results of an investigation  
27 into certain identified issues and persons relating to college basketball, that complaints were filed,  
28 and that certain persons were indicted. The ACC denies that any players or coaches from the



1 University of Louisville were indicted. Except as expressly admitted, the ACC denies the  
2 allegations of Paragraph 158.

3 159. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
4 allegations included in Paragraph 159 concerning alleged comments of Sonny Vaccaro. The  
5 ACC denies the remaining allegations of Paragraph 159.

6 160. The ACC admits on information and belief that the NCAA, other conferences, and  
7 NCAA member institutions are parties to certain social media agreements. The ACC lacks  
8 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
9 Paragraph 160.

10 161. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
11 allegations included in Paragraph 161 concerning the University of Southern California and  
12 alleged comments of unidentified persons at Fox Sports. The ACC denies the remaining  
13 allegations of Paragraph 161.

14 162. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
15 allegations included in Paragraph 162 concerning alleged social media agreements. The ACC  
16 denies the remaining allegations of Paragraph 162.

17 163. The ACC admits on information and belief that the NCAA, other conferences, and  
18 NCAA member institutions are parties to certain sponsorship agreements. The ACC lacks  
19 knowledge, information, or belief sufficient to admit or deny the remaining allegations of  
20 Paragraph 163.

21 164. The ACC admits on information and belief that Division I members invest funds  
22 for a variety of purposes, including but not limited to coaching contracts (which in many  
23 instances provide superior coaching for the benefit of student-athletes) and playing, training, and  
24 other facilities, which are beneficial and desirable to student-athletes. Except as expressly  
25 admitted, the ACC denies the allegations of Paragraph 164.

26 165. The ACC admits that institutions for various purposes invest in facilities, including  
27 but not limited to playing, training, and other facilities, which are beneficial and desirable to  
28 student-athletes. The ACC further admits on information and belief that Clemson completed a



1 facility in 2018 with various features that are beneficial and desirable to student-athletes. The  
2 ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations included  
3 in Paragraph 165 concerning a facility completed by the University of South Carolina. Except as  
4 expressly admitted, the ACC denies the allegations of Paragraph 165.

5 166. The ACC admits that NCAA member institutions pay the salaries and benefits of  
6 their administrators and coaches. The ACC lacks knowledge, information, or belief sufficient to  
7 admit or deny the allegations included in Paragraph 166 concerning the alleged salary information  
8 of coaches and administrators. Except as expressly admitted, the ACC denies the allegations of  
9 Paragraph 166.

10 167. The ACC admits that NCAA member institutions pay the salaries and benefits of  
11 their administrators and coaches. The ACC lacks knowledge, information, or belief sufficient to  
12 admit or deny the allegations included in Paragraph 167 concerning alleged salary, benefit, and  
13 endorsement information of the identified individuals. Except as expressly admitted, the ACC  
14 denies the allegations of Paragraph 167.

15 168. The ACC admits on information and belief that some coaches enter commercial  
16 agreements with various entities. Except as expressly admitted, the ACC denies the allegations of  
17 Paragraph 168.

18 169. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
19 allegations of Paragraph 169.

20 170. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
21 allegations of Paragraph 170.

22 171. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations of Paragraph 171.

24 172. The ACC admits that NCAA rules have established limitations on compensation to  
25 student-athletes, and that coaches are not subject to the student-athlete compensation rules. The  
26 ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations included  
27 in Paragraph 172 concerning Dabo Swinney. Except as expressly admitted, the ACC denies the  
28 allegations of Paragraph 172.

1           173. The ACC admits that NCAA rules have established limitations on compensation to  
2 student-athletes. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
3 allegations included in Paragraph 173 concerning offers allegedly made to student-athletes.

4 Except as expressly admitted, the ACC denies the allegations of Paragraph 173.

5           174. The ACC admits that NCAA rules have established limitations on compensation to  
6 student-athletes. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
7 allegations included in Paragraph 174 concerning alleged reporting of ESPN and alleged  
8 comments of Kevin Lennon. Except as expressly admitted, the ACC denies the allegations of  
9 Paragraph 174.

10           175. The ACC denies the allegations of Paragraph 175.

11           176. The ACC admits on information and belief that EA Sports produced video games  
12 utilizing collegiate marks under licensing agreement with the NCAA and various schools and  
13 conferences until 2014. The ACC further admits that the parties filed pleadings and the court  
14 issued rulings in the *Keller* case. The ACC lacks knowledge, information, or belief sufficient to  
15 admit or deny the remaining allegations of Paragraph 176.

16           177. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
17 allegations of Paragraph 177.

18           178. The ACC denies the allegations of Paragraph 178.

19           179. The ACC denies the allegations of Paragraph 179.

20           180. The ACC admits that the United States Supreme Court issued its opinion in *NCAA*  
21 *v. Board of Regents* in 1984. The ACC further admits that a small minority of NCAA Division I  
22 athletic departments generate positive net revenues, and that consumers demand collegiate sports.  
23 Except as expressly admitted, the ACC denies the allegations of Paragraph 180.

24           181. The ACC admits that the United States Court of Appeals for the 10th Circuit  
25 decided *Law v. NCAA*. The ACC further admits that consumers demand collegiate sports. The  
26 ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations included  
27 in Paragraph 181 concerning alleged salaries of assistant coaches. Except as expressly admitted,  
28 the ACC denies the allegations of Paragraph 181.

1           182. The ACC admits that the NCAA argued its legal positions in *White v. NCAA*. The  
2 ACC further admits that consumers demand collegiate sports and that COA grants-in-aid have  
3 been permitted and granted since 2015. Except as expressly admitted, the ACC denies the  
4 allegations of Paragraph 182.

5           183. The ACC admits that the District Court and the United States Court of Appeals for  
6 the Ninth Circuit in *O'Bannon v. NCAA* and *In re NCAA Athletic Grant-in-Aid Antitrust*  
7 *Litigation* issued opinions. The ACC further admits that consumers demand collegiate sports and  
8 that COA grants-in-aid have been permitted and granted since 2015. Except as expressly  
9 admitted, the ACC denies the allegations of Paragraph 183.

10           184. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
11 *In re NCAA Athletic Grant-in-Aid Antitrust Litigation* issued an opinion. Except as expressly  
12 admitted, the ACC denies the allegations of Paragraph 184.

13           185. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
14 *In re NCAA Athletic Grant-in-Aid Antitrust Litigation* issued an opinion. Except as expressly  
15 admitted, the ACC denies the allegations of Paragraph 185.

16           186. The ACC admits that United States Supreme Court issued its opinion in *NCAA v.*  
17 *Alston*, 141 S. Ct. 2141 (2021), on June 21, 2021. Except as expressly admitted, the ACC denies  
18 the allegations of Paragraph 186.

19           187. The ACC admits that on June 24, 2021 this Court issued its ruling on Defendants'  
20 motion to dismiss Plaintiffs' initial complaint in this action. Except as expressly admitted, the  
21 ACC denies the allegations of Paragraph 187.

22           188. The ACC admits on information and belief that several state laws and executive  
23 orders relating to student-athlete NIL went into effect on or about July 1, 2021. The various state  
24 laws establish various permissions and prohibitions, and will have to be interpreted by courts of  
25 the various states to the extent that such laws can be subject to various interpretations or are  
26 unclear or vague. The ACC lacks knowledge, information, or belief sufficient to admit or deny  
27 the allegations included in Paragraph 188 concerning the specific states that had legislation or  
28

1 executive orders in effect as of July 1, 2021. Except as expressly admitted, the ACC denies the  
2 allegations of Paragraph 188.

3 189. The ACC admits that the NCAA issued an Interim NIL Policy (along with  
4 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
5 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
6 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
7 bylaws. Except as expressly admitted, the ACC denies the allegations of Paragraph 189.

8 190. The ACC admits that the NCAA issued an Interim NIL Policy (along with  
9 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
10 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
11 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
12 bylaws. The ACC further admits on information and belief that there have been media reports  
13 that certain student-athletes at some schools and in some sports have been offered or accepted  
14 compensation for the alleged use of their names, images, and likenesses following the passage of  
15 state NIL laws and issuance of the Interim NIL Policy. The ACC lacks knowledge, information,  
16 or belief sufficient to admit or deny the allegations included in Paragraph 190 concerning the  
17 alleged comments of Mark Emmert, Mike Bobinski, Bob Bowlsby, and unidentified  
18 representatives of Defendants. Except as expressly admitted, the ACC denies the allegations of  
19 Paragraph 190.

20 191. The ACC denies the allegations of Paragraph 191.

21 192. The ACC denies the allegations of Paragraph 192.

22 193. The ACC admits that Defendants' procompetitive benefits in past litigation have  
23 included, among other things, consumer demand for the collegiate sports model. Except as  
24 expressly admitted, the ACC denies the allegations of Paragraph 193.

25 194. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
26 the *NCAA GIA* litigation issued an opinion. Except as expressly admitted, the ACC denies the  
27 allegations of Paragraph 194.  
28

1           195. The ACC admits that the United States District Court for the Northern District of  
2 California in *In re NCAA Athletic Grant-in-Aid Antitrust Litigation* issued an opinion. Except as  
3 expressly admitted, the ACC denies the allegations of Paragraph 195.

4           196. The ACC denies the allegations of Paragraph 196.

5           197. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
6 allegations included in Paragraph 197 concerning alleged unattributed surveys. The ACC  
7 specifically denies that it has engaged in any unlawful or anticompetitive conduct and denies the  
8 remaining allegations of Paragraph 197.

9           198. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations of Paragraph 198.

11           199. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
12 allegations of Paragraph 199.

13           200. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations included in Paragraph 200 concerning alleged polling and what such polls might  
15 indicate. The ACC denies the remaining allegations of Paragraph 200.

16           201. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
17 the *NCAA GIA* litigation issued an opinion. Except as expressly admitted, the ACC denies the  
18 allegations of Paragraph 201.

19           202. The ACC admits that the NCAA issued a Final Report and Recommendations on  
20 April 17, 2020 that contains the language quoted in Paragraph 202. Except as expressly admitted,  
21 the ACC denies the allegations of Paragraph 202.

22           203. The ACC admits that NCAA rules include limitations on compensation to student-  
23 athletes, and that there are provisions in the rules allowing for limited, non-monetary athletic  
24 participation mementos and awards, pre-matriculation tennis awards, and awards presented by  
25 Olympic governing bodies to the few student-athletes who compete in the Olympics. The ACC  
26 further admits upon information and belief that some Division I members have used Student  
27 Assistance Funds to purchase loss-of-value insurance policies to enable student-athletes to remain  
28

1 in college and compete in collegiate athletics. Except as expressly admitted, the ACC denies the  
2 allegations of Paragraph 203.

3 204. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
4 the *NCAA GIA* litigation issued an opinion. Except as expressly admitted, the ACC denies the  
5 allegations of Paragraph 204.

6 205. The ACC admits that the NCAA has consistently sought to expand benefits  
7 available to student-athletes within its conception, and consistent with its principles, of  
8 amateurism. The ACC further admits that the NCAA began allowing full COA athletic grants-in-  
9 aid in 2015, which naturally increased the number of student-athletes who might receive above-  
10 COA total assistance. The ACC further admits that consumers demand collegiate sports and that  
11 a small minority of NCAA Division I athletic departments generate positive net revenues. Except  
12 as expressly admitted, the ACC denies the allegations of Paragraph 205.

13 206. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations included in Paragraph 206 concerning alleged amounts received by certain  
15 individuals, including Kyler Murray. The ACC admits that consumers demand collegiate sports.  
16 Except as expressly admitted, the ACC denies the allegations of Paragraph 206.

17 207. The ACC admits that Plaintiffs do not purport to challenge NCAA rules requiring  
18 student-athletes to be enrolled in their institutions and to meet academic eligibility standards. The  
19 ACC admits that recently enacted state statutes, some of which became effective July 1, 2021,  
20 require that institutions offer certain educational resources and services to student-athletes  
21 relating to name, image, and likeness, and that some NCAA member institutions have offered  
22 educational resources and services. The ACC lacks knowledge, information, or belief sufficient  
23 to admit or deny the remaining allegations of Paragraph 207.

24 208. The ACC admits that there is a trial record and that the District Court and the  
25 United States Court of Appeals for the Ninth Circuit in the *NCAA GIA* litigation issued opinions.  
26 Except as expressly admitted, the ACC denies the allegations of Paragraph 208.

27 209. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations included in Paragraph 209 concerning alleged comments by unidentified critics. The

1 ACC admits that in 2017 the FBI announced the results of an investigation into certain identified  
2 issues and persons relating to college basketball, that the FBI filed complaints, and that certain  
3 persons were indicted. The ACC denies that any players or coaches from the University of  
4 Louisville, including Rick Pitino, were indicted. Except as expressly admitted, the ACC denies  
5 the allegations of Paragraph 209.

6 210. The ACC admits that the NCAA issued an Interim NIL Policy (along with  
7 accompanying materials) effective July 1, 2021 (the date that certain state laws and executive  
8 orders addressing NIL were effective or soon to be effective), with the result that certain activities  
9 relating to name, image, and likeness would not be impacted by the application of certain NCAA  
10 bylaws. The ACC further admits on information and belief that there have been media reports  
11 that certain student-athletes at some schools and in some sports have been offered or accepted  
12 compensation for the alleged use of their names, images, and likenesses following the passage of  
13 state NIL laws and issuance of the Interim NIL Policy. The ACC lacks knowledge, information,  
14 or belief sufficient to admit or deny the allegations included in Paragraph 210 concerning alleged  
15 evidence of the interests of consumers and sponsors. Except as expressly admitted, the ACC  
16 denies the allegations of Paragraph 210.

17 211. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
18 allegations included in Paragraph 211 concerning alleged comments of Mark Emmert. The ACC  
19 admits that the NCAA issued an Interim NIL Policy (along with accompanying materials)  
20 effective July 1, 2021 (the date that certain state laws and executive orders addressing NIL were  
21 effective or soon to be effective), with the result that certain activities relating to name, image,  
22 and likeness would not be impacted by the application of certain NCAA bylaws. The ACC  
23 admits that the United States Court of Appeals for the Ninth Circuit in *O'Bannon v. NCAA* issued  
24 an opinion. The ACC denies that the alleged less restrictive alternatives proffered in Paragraph  
25 211 would be appropriate or legally justified. Except as expressly admitted, the ACC denies the  
26 allegations of Paragraph 211.

27 212. Paragraph 212 does not contain allegations of fact and therefore no response is  
28 required. To the extent a response is required, the ACC denies the allegations of Paragraph 212.



1           213. The ACC admits that integration of student-athletes is a procompetitive  
2 justification for various rules that have been challenged in litigation. The ACC lacks knowledge,  
3 information, or belief sufficient to admit or deny the allegations included in Paragraph 213  
4 concerning alleged comments by unidentified NCAA personnel. Except as expressly admitted,  
5 the ACC denies the allegations of Paragraph 213.

6           214. The ACC denies the allegations of Paragraph 214.

7           215. The ACC admits that the United States Court of Appeals for the Ninth Circuit in  
8 *O'Bannon v. NCAA* issued an opinion. Except as expressly admitted, the ACC denies the  
9 allegations of Paragraph 215.

10          216. The ACC admits on information and belief that students at college campuses have  
11 varying access to income or wealth. The ACC lacks knowledge, information, or belief sufficient  
12 to admit or deny the allegations included in Paragraph 216 concerning the alleged impact on  
13 wealthier students. Except as expressly admitted, the ACC denies the allegations of Paragraph  
14 216.

15          217. The ACC admits on information and belief that some college students in America  
16 are employed and compensated. The ACC lacks knowledge, information, or belief sufficient to  
17 admit or deny the remaining allegations of Paragraph 217.

18          218. The ACC admits that the District Court and the United States Court of Appeals for  
19 the Ninth Circuit in the *NCAA GIA* litigation issued opinions. Except as expressly admitted, the  
20 ACC denies the allegations of Paragraph 218.

21          219. The ACC admits that NCAA rules have established limitations on compensation  
22 to student-athletes for the use of their names, images, and likenesses. The ACC further admits  
23 that the NCAA issued a Final Report and Recommendations on April 17, 2020 that contains  
24 substantially the language quoted in Paragraph 219. The ACC lacks knowledge, information, or  
25 belief sufficient to admit or deny the allegations included in Paragraph 219 concerning the  
26 policies that various educational institutions may have relating to students other than student-  
27 athletes. Except as expressly admitted, the ACC denies the allegations of Paragraph 219.  
28



1           220. The ACC admits that Plaintiffs do not purport to challenge NCAA rules requiring  
2 student-athletes to be enrolled in their institutions and to meet academic eligibility standards. The  
3 ACC further admits that recently enacted state statutes, some of which became effective July 1,  
4 2021, require that institutions offer certain educational resources and services to student-athletes  
5 relating to name, image, and likeness, and that some NCAA member institutions have offered  
6 educational resources and services. The ACC lacks knowledge, information, or belief sufficient  
7 to admit or deny the remaining allegations of Paragraph 220.

8           221. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
9 allegations of Paragraph 221.

10          222. The ACC denies the allegations of Paragraph 222.

11          223. The ACC denies the allegations of Paragraph 223.

12          224. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
13 allegations included in Paragraph 224 concerning the alleged comments of John Shoop. Except  
14 as expressly admitted, the ACC denies the allegations of Paragraph 224.

15          225. The ACC admits that NCAA rules have established limitations on compensation to  
16 student-athletes for the alleged use of their names, images, and likenesses, which have recently  
17 been altered in application by state laws and the Interim NIL Policy. Except as expressly  
18 admitted, the ACC denies the allegations of Paragraph 225.

19          226. The ACC denies the allegations of Paragraph 226.

20          227. The ACC denies the allegations of Paragraph 227.

21          228. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations of Paragraph 228.

23          229. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
24 allegations of Paragraph 229.

25          230. The ACC admits on information and belief that the NCAA's largest source of  
26 revenue is derived from media rights and attendance related to the NCAA Division I basketball  
27 tournament, and that the NCAA distributes a large portion of those funds to member institutions.  
28 Except as expressly admitted, the ACC denies the allegations of Paragraph 230.

1           231. The ACC admits that the NCAA makes payments to schools, which fund both  
2 men's and women's sports. The ACC denies the allegations included in Paragraph 231  
3 characterizing the alleged financial value associated with or derived from women's basketball,  
4 television viewership. The ACC denies that the NCAA makes any payments to either men's  
5 teams or women's teams. Except as expressly admitted, the ACC denies the allegations of  
6 Paragraph 231.

7           232. The ACC admits on information and belief that there have been media reports that  
8 some administrators, legislators, and members of the public support various concepts of student-  
9 athletes having the opportunity to seek compensation for the use of NIL. Except as expressly  
10 admitted, the ACC denies the allegations of Paragraph 232.

11           233. The ACC admits that California has passed the Fair Pay to Play Act ("SB 206"),  
12 set to take effect in 2023, and that other states have passed or introduced legislation relating to  
13 NIL. The ACC lacks knowledge, information, or belief sufficient to admit or deny the allegations  
14 included in Paragraph 233 concerning efforts to change the effective date of SB 206. Except as  
15 expressly admitted, the ACC denies the allegations of Paragraph 233.

16           234. The ACC admits that SB 206 permits certain NIL compensation or benefits as  
17 provided in the statute. The ACC lacks knowledge, information, or belief sufficient to admit or  
18 deny the allegations included in Paragraph 234 concerning the future effects of SB 206. If and to  
19 the extent that Paragraph 234 misstates the effect of or the provisions of SB 206, the ACC denies  
20 such allegations. Except as expressly admitted, the ACC denies the allegations of Paragraph 234.

21           235. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
22 allegations of Paragraph 235.

23           236. The ACC admits that numerous states have considered or passed legislation  
24 relating to student-athletes and NIL. The various state laws establish various permissions and  
25 prohibitions, and will have to be interpreted by courts of the various states to the extent that such  
26 laws can be subject to various interpretations or are unclear or vague. The ACC lacks knowledge,  
27 information, or belief sufficient to admit or deny the remaining allegations of Paragraph 236.  
28

1           237. The ACC admits on information and belief that the NCAA opposed certain aspects  
2 of SB 206 and communicated certain concerns to Governor Newsom regarding certain aspects.  
3 The ACC lacks knowledge, information, or belief sufficient to admit or deny the remaining  
4 allegations of Paragraph 237.

5           238. The ACC denies the allegations of Paragraph 238.

6           239. The ACC admits that unverified media sources report that the NCAA and some  
7 NCAA members have made public comments regarding possible revision of NCAA NIL rules  
8 and considerations relating to any such revisions. The ACC further admits that the NCAA and its  
9 working groups have studied, issued statements regarding, and drafted proposed rules for  
10 consideration related to NIL in 2019 and 2020. The ACC admits that the United States Supreme  
11 Court issued an opinion in *Alston* and that this Court issued a ruling on Defendants' motion to  
12 dismiss Plaintiffs' initial complaint in this action. The ACC further admits that the NCAA issued  
13 an Interim NIL Policy (along with accompanying materials) effective July 1, 2021 (the date that  
14 certain state laws and executive orders addressing NIL were effective or soon to be effective),  
15 with the result that certain activities relating to name, image, and likeness would not be impacted  
16 by the application of certain NCAA bylaws. Except as expressly admitted, the ACC denies the  
17 allegations of Paragraph 239.

18           240. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
19 allegations of Paragraph 240.

20           241. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
21 allegations of Paragraph 241.

22           242. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations of Paragraph 242.

24           243. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
25 allegations included in Paragraph 243 concerning the alleged comments of Warde Manuel. The  
26 ACC denies the remaining allegations of Paragraph 243.

1           244. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations included in Paragraph 244 concerning the alleged comments of Jack Swarbrick. The  
3 ACC denies the remaining allegations of Paragraph 244.

4           245. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
5 allegations included in Paragraph 245 concerning the alleged comments of Kyle Kallander. The  
6 ACC denies the remaining allegations of Paragraph 245.

7           246. The ACC admits that unverified media sources report that the NCAA and some  
8 NCAA members have made public comments regarding possible revision of NCAA NIL rules  
9 and considerations relating to any such revisions. The ACC lacks knowledge, information, or  
10 belief sufficient to admit or deny the allegations included in Paragraph 246 concerning the alleged  
11 comments of Scott Frost and Garrett Klassy. Except as expressly admitted, the ACC denies the  
12 allegations of Paragraph 246.

13           247. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
14 allegations included in Paragraph 247 concerning the alleged comments of Jim Harbaugh and  
15 alleged revenues of the University of Michigan. The ACC denies the remaining allegations of  
16 Paragraph 247.

17           248. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
18 allegations included in Paragraph 248 concerning the alleged comments of Chris Holtmann. The  
19 ACC denies the remaining allegations of Paragraph 248.

20           249. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
21 allegations of Paragraph 249.

22           250. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations of Paragraph 250.

24           251. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
25 allegations of Paragraph 251.

26           252. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
27 allegations included in Paragraph 252 concerning the alleged comments of Kristin Williams. The  
28 ACC denies the remaining allegations of Paragraph 252.

1           253. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations included in Paragraph 253 concerning the alleged comments of Kyle Kallander. The  
3 ACC denies the remaining allegations of Paragraph 253.

4           254. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
5 allegations of Paragraph 254.

6           255. The ACC admits that the NCAA issued a Report of the NCAA Board of  
7 Governors on October 29, 2019 that contains the language quoted in Paragraph 255. Except as  
8 expressly admitted, the ACC denies the allegations of Paragraph 255.

9           256. The ACC admits that the NCAA issued a Report of the NCAA Board of  
10 Governors on October 29, 2019 that contains the language quoted in Paragraph 256. Except as  
11 expressly admitted, the ACC denies the allegations of Paragraph 256.

12           257. The ACC admits that the NCAA issued a Final Report and Recommendations on  
13 April 17, 2020 that contains substantially the language quoted in Paragraph 257. Except as  
14 expressly admitted, the ACC denies the allegations of Paragraph 257.

15           258. The ACC admits that the NCAA issued a Final Report and Recommendations on  
16 April 17, 2020 that contains the language quoted in the last sentence of Paragraph 258. Except as  
17 expressly admitted, the ACC denies the allegations of Paragraph 258.

18           259. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
19 allegations included in Paragraph 259 concerning the alleged comments of the NCAA. The ACC  
20 denies the remaining allegations of Paragraph 259.

21           260. The ACC admits that the NCAA issued a Final Report and Recommendations on  
22 April 17, 2020 that contains substantially the language quoted in Paragraph 260. The ACC  
23 further admits that the NCAA sought proposals from the three divisions. Except as expressly  
24 admitted, the ACC denies the allegations of Paragraph 260.

25           261. The ACC admits that the NCAA issued a Final Report and Recommendations on  
26 April 17, 2020 that contains the language quoted in part in Paragraph 261. Except as expressly  
27 admitted, the ACC denies the allegations of Paragraph 261.

1           262. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations included in Paragraph 262 concerning the alleged comments of the Associated Press  
3 and alleged expenditures of other entities.

4           263. The ACC admits that the conferences that are parties to this action sent a letter to  
5 congressional leaders on May 23, 2020 regarding potential federal NIL legislation. Except as  
6 expressly admitted, the ACC denies the allegations of Paragraph 263.

7           264. The ACC admits that the NCAA and its working groups have studied, issued  
8 statements regarding, and drafted proposed rules for consideration related to NIL in 2019 and  
9 2020. The ACC further admits that in or about January 2021 the United States Department of  
10 Justice sent the NCAA a letter. Except as expressly admitted, the ACC denies the allegations of  
11 Paragraph 264.

12           265. The ACC admits that unverified media sources report that the NCAA and some  
13 NCAA members have made public comments regarding possible revision of NCAA NIL rules  
14 and considerations relating to any such revisions. The ACC further admits on information and  
15 belief that Rebecca Blank testified before the Senate Committee on Health, Education, Labor &  
16 Pensions in 2020. The ACC lacks knowledge, information, or belief sufficient to admit or deny  
17 the remaining allegations of Paragraph 265.

18           266. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
19 allegations included in Paragraph 266 concerning the alleged comments of Allen Greene. Except  
20 as expressly admitted, the ACC denies the allegations of Paragraph 266.

21           267. The ACC admits that Mark Emmert testified before the Senate Commerce  
22 Committee in June 2021. Except as expressly admitted, the ACC denies the allegations of  
23 Paragraph 267.

24           268. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
25 allegations of Paragraph 268.

26           269. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
27 allegations included in Paragraph 269 concerning an alleged undated Knight Commission report.  
28 The ACC denies the remaining allegations of Paragraph 269.

1           270. The ACC admits on information and belief that the Knight Commission has issued  
2 statements concerning student-athlete NIL. The ACC lacks knowledge, information, or belief  
3 sufficient to admit or deny the allegations included in Paragraph 270 concerning the alleged  
4 comments of the Knight Commission. Except as expressly admitted, the ACC denies the  
5 allegations of Paragraph 270.

6           271. The ACC admits that the NCAA has a process for accepting applications for  
7 waivers from student-athletes relating to the use of their NIL. The ACC further admits that the  
8 NCAA issued a Final Report and Recommendations on April 17, 2020 that contains the language  
9 quoted in part in Paragraph 271. The ACC lacks knowledge, information, or belief sufficient to  
10 admit or deny the allegations included in Paragraph 271 concerning the number of waiver  
11 applications submitted and approved and concerning the alleged comments of Bernadette  
12 McGlade. Except as expressly admitted, the ACC denies the allegations of Paragraph 271.

13           272. The ACC admits that the NCAA issued a Final Report and Recommendations on  
14 April 17, 2020. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
15 allegations included in Paragraph 272 concerning the characterizations of the content and waivers  
16 allegedly granted. Except as expressly admitted, the ACC denies the allegations of Paragraph  
17 272.

18           273. The ACC admits on information and belief that Arike Ogunbowale sought a  
19 waiver to participate on the television show *Dancing with the Stars*. The ACC lacks knowledge,  
20 information, or belief sufficient to admit or deny the remaining allegations included in Paragraph  
21 273 concerning Arike Ogunbowale. Except as expressly admitted, the ACC denies the  
22 allegations of Paragraph 273.

23           274. The ACC denies the allegations of Paragraph 274.

24           275. The ACC admits that NCAA rules have established limitations on compensation to  
25 student-athletes for the alleged use of their names, images, and likenesses. Except as expressly  
26 admitted, the ACC denies the allegations of Paragraph 275.

27           276. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations of Paragraph 276.



1           277. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 277.

3           278. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
4 allegations of Paragraph 278.

5           279. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
6 allegations of Paragraph 279.

7           280. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8 allegations of Paragraph 280.

9           281. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
10 allegations of Paragraph 281.

11           282. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
12 allegations included in Paragraph 282 concerning an alleged Axios.com report on Opendorse.  
13 The ACC denies the remaining allegations of Paragraph 282.

14           283. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
15 allegations included in Paragraph 283 concerning an alleged fivethirtyeight.com report on  
16 Opendorse. The ACC denies the remaining allegations of Paragraph 283.

17           284. The ACC admits that unverified media sources report that certain student-athletes  
18 at some schools and in some sports have been offered or accepted compensation for the alleged  
19 use of their names, images, and likenesses following the passage of state NIL laws and issuance  
20 of the Interim NIL Policy. The ACC lacks knowledge, information, or belief sufficient to admit  
21 or deny the allegations included in Paragraph 284 concerning the alleged comments of Mark  
22 Emmert, the alleged interests of consumers, and the alleged beliefs of companies. Except as  
23 expressly admitted, the ACC denies the allegations of Paragraph 284.

24           285. The ACC denies the allegations of Paragraph 285.

25           286. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
26 allegations included in Paragraph 286 concerning the alleged views of unidentified business  
27 leaders and senior executives. The ACC denies the remaining allegations of Paragraph 286.  
28



1           287. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 287.

3           288. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
4 allegations of Paragraph 288.

5           289. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
6 allegations of Paragraph 289.

7           290. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
8 allegations included in Paragraph 290 concerning the alleged comments of Matt Micheli. The  
9 ACC denies the remaining allegations of Paragraph 290.

10          291. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
11 allegations of Paragraph 291.

12          292. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
13 allegations of Paragraph 292.

14          293. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
15 allegations of Paragraph 293.

16          294. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
17 allegations included in Paragraph 294 concerning the alleged comments of Blake Lawrence. The  
18 ACC specifically denies that it has engaged in any unlawful conduct and denies the remaining  
19 allegations of Paragraph 294.

20          295. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
21 allegations of Paragraph 295.

22          296. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
23 allegations included in Paragraph 296 concerning the alleged comments of Terry Tumey. The  
24 ACC denies the remaining allegations of Paragraph 296.

25          297. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
26 allegations of Paragraph 297.

27          298. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
28 allegations of Paragraph 298.

1           299. The ACC lacks knowledge, information, or belief sufficient to admit or deny the  
2 allegations of Paragraph 299.

3           300. The ACC admits that Plaintiffs seek to bring this action on behalf of the putative  
4 class identified in Paragraph 300 but denies that such class is properly defined or that this action  
5 can be maintained as a class action. Except as expressly admitted, the ACC denies the allegations  
6 of Paragraph 300.

7           301. The ACC admits that Plaintiffs seek to bring this action on behalf of the putative  
8 sub-class identified in Paragraph 301 but denies that such sub-class is properly defined or that this  
9 action can be maintained as a class action. Except as expressly admitted, the ACC denies the  
10 allegations of Paragraph 301.

11           302. The ACC admits that Plaintiffs seek damages from defendants relating to NCAA  
12 rules establishing limitations on compensating student-athletes for the alleged use of their names,  
13 images, and likenesses. The ACC denies that Plaintiffs are entitled to damages. The ACC  
14 specifically denies that it has engaged in any unlawful conduct. Except as expressly admitted, the  
15 ACC denies the allegations of Paragraph 302.

16           303. The ACC admits that Plaintiffs seek to bring this action on behalf of the putative  
17 sub-class identified in Paragraph 303 but denies that such sub-class is properly defined or that this  
18 action can be maintained as a class action. Except as expressly admitted, the ACC denies the  
19 allegations of Paragraph 303.

20           304. The ACC admits that Plaintiffs seek damages from defendants relating to NCAA  
21 rules establishing limitations on compensating student-athletes for the alleged use of their names,  
22 images, and likenesses. The ACC denies that Plaintiffs are entitled to damages. The ACC  
23 specifically denies that it has engaged in any unlawful conduct. Except as expressly admitted, the  
24 ACC denies the allegations of Paragraph 304.

25           305. The ACC admits that Plaintiffs seek to bring this action on behalf of the putative  
26 sub-class identified in Paragraph 305 but denies that such sub-class is properly defined or that this  
27 action can be maintained as a class action. Except as expressly admitted, the ACC denies the  
28 allegations of Paragraph 305.

1           306. The ACC admits that Plaintiffs seek damages from defendants relating to NCAA  
2 rules establishing limitations on compensating student-athletes for the alleged use of their names,  
3 images, and likenesses. The ACC denies that Plaintiffs are entitled to damages. The ACC  
4 specifically denies that it has engaged in any unlawful conduct. Except as expressly admitted, the  
5 ACC denies the allegations of Paragraph 306.

6           307. The ACC admits that Plaintiffs refer in the Complaint to the putative class and  
7 sub-classes identified in Paragraphs in 300, 301, 303, and 305 as “the Classes.” Except as  
8 expressly admitted, the ACC denies the allegations of Paragraph 307.

9           308. The ACC admits that Plaintiffs seek to bring this action on behalf of the putative  
10 class identified in Paragraph 308 but denies that such class is properly defined or that this action  
11 can be maintained as a class action. Except as expressly admitted, the ACC denies the allegations  
12 of Paragraph 308.

13           309. The ACC denies the allegations of Paragraph 309.

14           310. The ACC denies the allegations of Paragraph 310.

15           311. The ACC denies the allegations of Paragraph 311.

16           312. The ACC denies the allegations of Paragraph 312.

17           313. The ACC denies the allegations of Paragraph 313.

18           314. The ACC denies the allegations of Paragraph 314.

19           315. The ACC denies the allegations of Paragraph 315.

20           316. The ACC denies the allegations of Paragraph 316.

21           317. The ACC denies the allegations of Paragraph 317.

22           318. The ACC denies the allegations of Paragraph 318.

23           319. The ACC denies the allegations of Paragraph 319.

24           320. The ACC denies the allegations of Paragraph 320.

25           321. The ACC denies the allegations of Paragraph 321.

26           322. The ACC reincorporates and realleges by reference its response to the allegations  
27 set forth in all preceding paragraphs of the Complaint as if fully set forth herein.

28           323. The ACC denies the allegations of Paragraph 323.

1 324. The ACC denies the allegations of Paragraph 324.

2 325. The ACC denies the allegations of Paragraph 325.

3 326. The ACC denies the allegations of Paragraph 326.

4 327. The ACC denies the allegations of Paragraph 327.

5 328. The ACC denies the allegations of Paragraph 328.

6 329. The ACC denies the allegations of Paragraph 329.

7 330. The ACC denies the allegations of Paragraph 330.

8 331. The ACC denies the allegations of Paragraph 331.

9 332. The ACC denies the allegations of Paragraph 332.

10 333. The ACC reincorporates and realleges by reference its response to the allegations  
11 set forth in all preceding paragraphs of the Complaint as if fully set forth herein.

12 334. The ACC denies the allegations of Paragraph 334.

13 335. The ACC denies the allegations of Paragraph 335.

14 336. The ACC denies the allegations of Paragraph 336.

15 337. The ACC denies the allegations of Paragraph 337.

16 338. The ACC denies the allegations of Paragraph 338.

17 339. The ACC denies the allegations of Paragraph 339.

18 340. The ACC denies the allegations of Paragraph 340.

19 341. The ACC denies the allegations of Paragraph 341.

20 342. The ACC denies the allegations of Paragraph 342.

21 343. The ACC denies the allegations of Paragraph 343.

22 344. The ACC denies the allegations of Paragraph 344.

23 345. The ACC reincorporates and realleges by reference its response to the allegations  
24 set forth in all preceding paragraphs of the Complaint as if fully set forth herein.

25 346. The ACC denies the allegations of Paragraph 346.

26 347. The ACC denies the allegations of Paragraph 347.

27 **DENIAL**

28 The ACC denies each and every allegation not specifically admitted above.

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**ADDITIONAL DEFENSES**

The ACC reserves the right to assert any and all applicable defenses to the Plaintiffs' claims. The ACC reserves the right to amend this Answer to add, supplement, or modify defenses based upon further developments in this litigation, including new factual developments or legal theories that may be or will be divulged through clarification of the Amended Complaint, through discovery, or through further factual or legal analysis of Plaintiffs' allegations, contentions, and positions in this litigation. Without limiting the generality of the foregoing and without regard to whether defenses set forth below are affirmative defenses within the meaning of Federal Rule of Civil Procedure 8(c)(1), and without conceding that any such defenses must be set forth in this Answer or assuming any burden of proof that it would not otherwise bear, the ACC states as follows:

**FIRST ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, by the doctrine of mootness to the extent that Plaintiffs seek injunctive relief for student-athletes who are no longer participating in NCAA athletics and to the extent that the NCAA bylaws that Plaintiffs seek to enjoin are no longer in effect.

**SECOND ADDITIONAL DEFENSE**

The claims of the Plaintiffs and others claimed to be members of the putative class, classes, or sub-classes are barred because their alleged damages are speculative and conjectural and are not capable of calculation with a reasonable degree of certainty.

**THIRD ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, by stare decisis and also by res judicata to the extent that Plaintiffs' claims were previously adjudicated in *NCAA v. Alston*, 141 S. Ct. 2141 (2021), *O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015), or *Marshall v. ESPN*, 668 Fed. App'x 155 (6th Cir. 2016), or to the extent they are adjudicated in any other litigation brought by members of the Plaintiffs' putative classes against any of the Defendants that reaches final judgment before a judgment is rendered in this action.

**FOURTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and others claimed to be members of the putative class, classes, or sub-classes are barred, in whole or in part, by collateral estoppel to the extent that the Plaintiffs' claims were previously adjudicated in *NCAA v. Alston*, 141 S. Ct. 2141 (2021), *O'Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015), or *Marshall v. ESPN*, 668 Fed. App'x 155 (6th Cir. 2016), or to the extent they are adjudicated in any other litigation brought by members of the Plaintiffs' putative classes and sub-classes against any of the Defendants that reaches final judgment before a judgment is rendered in this action.

**FIFTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, by the applicable statute of limitations.

**SIXTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, because the Complaint fails to state a claim for relief under the doctrine established by the United States Supreme Court's decision in *Texaco Inc. v. Dagher*, 547 U.S. 1 (2006). Specifically, the conduct alleged constitutes decisions made regarding the core activities of a legitimate venture that are not unlawful restraints of trade under the antitrust laws.

**SEVENTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, to the extent that any of the agreements, practices, or conduct at issue is required or has been approved by any order, award, directive or similar action of any court, arbitral body, or government agency.

**EIGHTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, because the actions of defendants do not unreasonably restrain trade, but are lawful, justified, and procompetitive by preserving the distinction between college and professional sports.

**NINTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, because the actions of defendants do not unreasonably restrain trade, but are lawful, justified, and procompetitive given the need for institutional members of the NCAA to prevent pay-for-play and improper recruiting inducements, including by imposing uniform rules of national competition regarding financial incentives for student-athletes to attend particular schools.

**TENTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, to the extent that any of the agreements, practices, or conduct at issue is required to comply with state or federal laws or regulations and to the extent that the relief demanded by Plaintiffs is inconsistent with or prohibited by applicable state or federal laws or regulations.

**ELEVENTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, to the extent that they were not injured by, or have been enriched by, the rules being challenged here, which preserve institutions' ability to offer a broad set of athletics offerings and, thus, opportunities to student-athletes.

**TWELFTH ADDITIONAL DEFENSE**

The claims of the Plaintiffs and alleged members of the putative class and sub-classes are barred, in whole or in part, and the actions of defendants are justified by the provisions of the United States Constitution that guarantee free speech and the right to petition the government for redress of grievances, under the *Noerr-Pennington* doctrine.

**THIRTEENTH ADDITIONAL DEFENSE**

The claims of certain named plaintiffs and members of the putative classes and sub-classes are barred, in whole or in part, by the settlement and release finally approved by the Court in *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation*, Case No. 14-md-02541 (N.D. Cal).



**PRAYER FOR RELIEF**

WHEREFORE, the ACC prays that this Court deny the relief requested by Plaintiffs, dismiss this action with prejudice, enter judgment that Plaintiffs have and recover no relief from the ACC, tax costs and attorneys' fees against the Plaintiffs, and afford the ACC such other and further relief as may be just and proper.

DATED: September 22, 2021

**FOX ROTHSCHILD LLP**

/s/ D. Erik Albright

D. Erik Albright (*pro hac vice*)  
Gregory G. Holland (*pro hac vice*)  
FOX ROTHSCHILD LLP  
230 N. Elm Street, Suite 1200  
Greensboro, NC 27401  
Telephone: (336) 378-5200  
Facsimile: (336) 378-5400  
[ecalbright@foxrothschild.com](mailto:ecalbright@foxrothschild.com)  
[gholland@foxrothschild.com](mailto:gholland@foxrothschild.com)

Jonathan P. Heyl (*pro hac vice*)  
FOX ROTHSCHILD LLP  
101 N. Tryon St., Suite 1300  
Charlotte, NC 28246  
Telephone: (704) 384-2600  
Facsimile: (704) 384-2800  
[jhey1@foxrothschild.com](mailto:jhey1@foxrothschild.com)

Alexander Hernaez  
CA Bar # 201441  
FOX ROTHSCHILD LLP  
345 California St.  
Suite 2200  
San Francisco, CA, 94104-2670  
Telephone: (415) 364-5566  
Facsimile: (415) 391-4436  
[ahernaez@foxrothschild.com](mailto:ahernaez@foxrothschild.com)

*Attorneys for Defendant*  
*ATLANTIC COAST CONFERENCE*